

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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IN RE ELECTRONIC BOOKS ANTITRUST  
LITIGATION

X  
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: 11-MD-02293 (DLC)  
:  
X  
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This Document Relates to:

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THE STATE OF TEXAS,  
THE STATE OF CONNECTICUT, *et al.*,

Plaintiffs,

v.

PENGUIN GROUP (USA) INC., *et al.*,

Defendants.

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: 12 Civ. 03394 (DLC)  
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X  
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**NOTICE OF DEFENDANT APPLE INC.'S MOTION TO DISMISS FOR LACK OF  
JURISDICTION OR, IN THE ALTERNATIVE, TO COMPEL THE PLAINTIFF  
STATES TO SEEK CLASS CERTIFICATION**

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD**

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the undersigned attorneys for Defendant Apple Inc. will move this Court, before the Honorable Denise L. Cote, United States District Judge, United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, at a date and time to be set by the Court, for an order dismissing the claims against Apple pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(h)(3) or, in the alternative, an order directing the Plaintiff States to

file a motion seeking class certification under Rule 23 of the Federal Rules of Civil Procedure, as well as any other relief the Court may deem just and proper.

Dated: November 15, 2013

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